

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

KIZZY BYARS, et al.,

Plaintiff(s),

v.

WESTERN BEST LLC, et al.,

Defendant(s).

Case No. 2:19-CV-1690 JCM (DJA)

ORDER

Presently before the court is the matter of *Byars et al. v. Western Best LLC*, case number 2:19-cv-01690-JCM-DJA. On June 23, 2020, defendant Western Best LLC filed a motion for interlocutory appeal. (ECF No. 43). Western Best intends to appeal this court's order, in which the court denies Western Best's motion to dismiss and found that it was an "employer" for the purposes of Title VII, 42 U.S.C. § 2000e, *et seq.* *See id.*; (*see also* ECF No. 40).

Pursuant to 28 U.S.C. § 1292(b), Western Best asks the court to certify the following question: "Is a business engaged in the unique Nevada industry of legalized prostitution, which in limited part includes the use of goods that have plausibly moved in interstate commerce, subject to the requirements of Title VII of the Civil Rights Act of 1964?" (ECF No. 43 at 1).

The court stayed the case pending resolution of this motion. (ECF Nos. 44 (motion to stay); 47 (order staying case)). The court also ordered plaintiffs Kizzy Byars and Danielle James to respond to the motion for interlocutory appeal within 14 days. (ECF No. 47 at 2). On July 21, 2020, plaintiffs filed their notice of non-opposition to the motion.

The court finds that its prior order (ECF No. 40) involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation. Therefore, the court

1 certifies its order for interlocutory appeal. This action shall remain stayed until either the Ninth
2 Circuit declines to permit an appeal or until such appeal, if accepted, is resolved.

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Western Best's motion
5 for interlocutory appeal (ECF No. 43) be, and the same hereby is, GRANTED.

6 IT IS FURTHER ORDERED that the matter of *Byars et al. v. Western Best LLC*, case
7 number 2:19-cv-01690-JCM-DJA, be, and the same hereby is, STAYED until either the Ninth
8 Circuit declines to permit an appeal or until such appeal, if accepted, is resolved.

9 DATED July 22, 2020.

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11 UNITED STATES DISTRICT JUDGE
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